

REMARKS

Status of the claims:

With the above amendments, claim 1 has been amended. Claims 1-6 are pending and ready for further action on the merits. No new matter has been added by way of the above amendments. Reconsideration is respectfully requested in light of the following remarks.

Election of Species

The Examiner has requested that Applicants elect a species. Applicants herein elect the compound in Example 46. It is understood that if the Examiner treats the instant invention as an election of species, that the Examiner will comport with the election of species practice as is recited in MPEP §809.02 et seq.

Applicants also again traverse the restriction requirement that issued October 23, 2002. Applicants submit that there is no undue burden on examining all the claims at once. Applicants respectfully request that should the Examiner fail to rejoin the claims for examination now, that at the time that the product claims are found allowable, that the "method of use" claims be rejoined at that time as is consistent with the holding in *In re Ochiai*, 37 USPQ2d 1127 (Fed. Cir. 1995).

Rejections under 35 USC §112, second paragraph

Claims 1-6 have been rejected under 35 USC §112, second paragraph as being indefinite. The Examiner asserts that a variable cannot be defined by itself. Applicants have amended claim 1 so that that variable "R⁵" is no longer defined by itself. Withdrawal of the rejection is warranted and respectfully requested.

Rejections under 35 USC §102

Claims 1-3 are rejected under 35 USC §102(e) as being anticipated by Bohm '817 (US Patent No. 6,444,817).

Claims 1, 2, and 5 have been rejected under 35 USC §102(e) as being anticipated by Lumma (*J. Med. Chem.*, 41, pp. 1011-1013, (1998)). It is presumed that the Examiner meant some other section of 35 USC §102 as 35 USC §102(e) is reserved for prior art that is an application for a patent or for a patent itself.

Nevertheless, these rejections are traversed for the following reasons.

Applicants have amended claim 1 by omitting a member of the Markush group for variable G. Applicants believe that with this amendment that the rejections have been obviated. Neither Bohm '817 nor Lumma disclose compounds that fall within the scope of the claims where G is nitrogen. Withdrawal of the rejections is warranted and respectfully requested.

Application No. 09/810,243

With the above remarks and amendments, it is believed that the claims, as they now stand, define patentable subject matter such that passage of the instant invention to allowance is warranted. A Notice to that effect is earnestly solicited.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) respectfully petition(s) for a one (1) month extension of time for filing a reply in connection with the present application, and the required fee of \$410.00 is attached hereto.

If any questions remain regarding the above matters, please contact Applicant's representative, T. Benjamin Schroeder (Reg. No. 50,990), in the Washington metropolitan area at the phone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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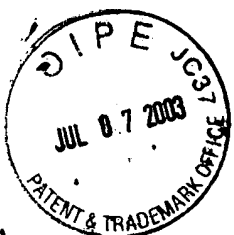
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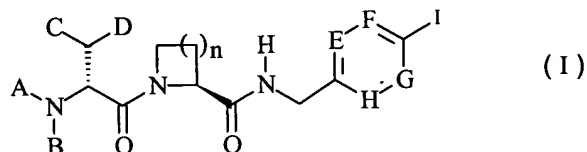


VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Claim 1 has been amended as follows:

1. (Amended) A compound having formula (I)



and pharmaceutically acceptable salts thereof

wherein

n is 1 or 2;

A is hydrogen, C₁₋₆ alkyl, aryl, -SO₂R¹, -PO(OC₁₋₆ alkyl)₂, -PO(C₁₋₆ alkyl)₂, -CO(C₁₋₆ alkyl), -CO₂R², -(CH₂)_mCO₂H or -(CH₂)_mCO₂(C₁₋₆ alkyl),

wherein

R¹ is hydrogen, C₁₋₆ alkyl, C₃₋₇ cycloalkyl, aryl, -(CH₂)_maryl or -NR³R⁴

R² is C₁₋₆ alkyl, C₃₋₇ cycloalkyl, aryl, -(CH₂)_maryl or alkenyl, and

m is 1, 2 or 3,

wherein

aryl is unsubstituted, substituted phenyl or 5-6 membered aromatic heterocyclic ring, and

R³ and R⁴ are independently hydrogen, C₁₋₆ alkyl or C₃₋₇

cycloalkyl;

B is hydrogen;

C and D are both

phenyl unsubstituted or substituted with one or two

substituents selected from C₁₋₄ alkyl, C₁₋₄ alkoxy,

methylenedioxy, halogen, hydroxy and NR⁴R⁵, or

C₃₋₇ cycloalkyl;

E, F, [G,] and H are independently CR⁵ or N and G is N,

wherein

R⁵ is hydrogen, C₁₋₄ alkyl, C₁₋₄ alkoxy, CF₃, halogen, hydroxy or

[-NR⁴R⁵] -NR³R⁴; and

I is -C(NH)NH₂, -C(NH₂)NOH, or -CH₂NH₂.